

Appl. No. 10/646,793
Amendment dated: April 4, 2005
Reply to OA of: December 2, 2004

REMARKS

Applicants have amended the specification and claims to more particularly define the invention taking into consideration the outstanding Official Action. The specification has been amended at pages 6, 7, 8, 9 and 10 as fully supported by the specification as originally filed as it would be interpreted by one of ordinary skill in the art to which the invention pertains.

Applicants have amended claims 1-2, 6-10, 12, 16-17, 21-25 and 27. Applicants most respectfully submit that all the claims now present in the application are in full compliance with 35 U.S.C. §112 and are clearly patentable over the references of record.

The rejection of claims 1-2, 6-10, 16-17 and 21-14 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention has been carefully considered but is most respectfully traversed in view of the amendments to the claims and the following comments.

The statement of claim 1 is corrected to distinctly claim the subject matter and as fully supported by Applicants' specification as originally filed and interpreted by one of ordinary skill in the art to which the invention pertains.

The statements are unclear in claims 1 and 16, part (d) 'separating said second solid phase and liquid phase'. To clarify the statement, claims 1 and 16, part (d) are reworded by following the suggestion of the examiner: 'adding alcohol into said concentrate for precipitation and forming a second solid phase and a second liquid phase; separating said second solid phase from said second liquid phase and drying said second solid phase'. The Examiner's helpful comments are much appreciated.

'Alcohol solution' recited in claims 1, 2 and 16-17 have been reworded to make a clarification. Claims 1 and 16, part (b) are stated as 'adding a Rhei Rhizoma herb and alcohol into said mixture, ...'. claims 2 and 17 are stated as 'further comprising adding a Schizandrae Fructus and alcohol in step (b)'. The amendment for clarifying is

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supported by the description in line 2 on page 7, line 3 on page 8 and line 8 on page 9 of the specification for the preparation of the extract. The word 'solution' is deleted to make it clear and only 'alcohol' is used here.

Regarding to claims 6 and 21, a process is further performed after part (d) of claims 1 and 20, in order to make a certain statement, claims 6 and 21 are reworded: 'a step (e) is further comprising after step (d), adding alcohol into said second liquid phase for precipitation and forming a third solid phase and a third liquid phase until a final concentration of alcohol is 75 to 90 wt%; separating said third solid phase from said third liquid phase and then drying said third solid phase.' Please note here that second liquid phase is kept for a further use after the second solid phase is precipitated, filtrated from second liquid phase. The clarification is supported according to the description on line 15-25 page 8 and line 1-9 page 10, concerning to embodiments 2 and 3.

Applicant also clearly defines the herbs claimed in claims 7-9 and 22-24 as "Artemisiae Capillaris, Artemisiae Annuae and Artemisiae Scopariae", "Gardenia Jasminoides and Gardenia Radicans" and "Rheum Officinale and Rhubarb Shui-Ken." And the corrections are made for clarification.

According to the embodiment 1 on page 6, embodiment 2 on page 7 and embodiment 3 on page 9, the step "2. Said mixture is extracted at 80°C for 1 h,..." is cited and that supports the statement in claim 1, step (a) "boiling a mixture achieved from the grinding and mixing" wherein the word "boiling" is a inadvertent error, and corrected with the word "heating" to make a clear statement. Thus, what claim 10 states would be reasonable.

Claims 1 and 16, part (b) 'and mixing again to form a first solid phase and a first liquid phase;..' are amended as 'and extracting to form a first solid phase and a first liquid phase;..' to make it more clear. The amendment is supported by the description in line 1 on page 7, line 1 on page 8 and line 5 on page 9 of the specification for the preparation of the extract. Accordingly, it is most respectfully requested that this rejection be withdrawn.

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The rejection of claims 1-29 under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a composition and process which comprises species as indicated in claim 7-9, does not reasonably provide enablement for all genus of Artemisiae, Gardeniae and Rheum has been carefully considered but is most respectfully traversed in view of the amendments to the claims.

The claims 7-9 are rejected under this statute along with claims 1-6 and 10-29 is that claims 7-9 recite "and the herbs of the same genus" which may indicate that the claims include all other species of each genus which is not enabled. Accordingly, it is most respectfully requested that this rejection be withdrawn.

In view of the foregoing remarks, reconsideration and allowance of the application are now believed to be in order, and such action is hereby solicited. If any points remain in issue that the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned attorney at the telephone number listed below.

Respectfully submitted,

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